

Commonwealth of Massachusetts Human Resources Division

SEXUAL HARASSMENT POLICY

I. Introduction

It is the goal of the Commonwealth of Massachusetts to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings related to their employment is unlawful and will not be tolerated by the Commonwealth. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because the Commonwealth of Massachusetts takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

II. Definition Of Sexual Harassment

In Massachusetts, "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

*Unwelcome sexual advances -- whether they involve physical touching or not;

*Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;

*Displaying sexually suggestive objects, pictures, cartoons;

*Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;

*Inquiries into one's sexual experiences; and,

*Discussion of one's sexual activities.

The complainant does not have to be the person at whom the unwelcome sexual conduct is directed. The complainant, regardless of gender, may be a witness to and personally offended by such conduct. The harasser may be anyone including a supervisor, a co-worker, or a non-employee, such as a recipient of public services or a vendor.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Commonwealth of Massachusetts.

III. Complaints of Sexual Harassment

If any Commonwealth employee believes that he/she has been subjected to sexual harassment, the employee has the right to file a complaint. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting your agency's Sexual Harassment Officer. The Sexual Harassment Officer is also available to discuss any concerns you may have and to provide information to you about the Commonwealth's policy on sexual harassment and the Commonwealth's complaint process. The procedures for reporting sexual harassment can be located on the HRD website at or by contacting the Human Resources Division.

IV. Sexual Harassment Investigation

When a state agency receives a complaint it will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted by the Sexual Harassment Officer in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the person filing the complaint and with witnesses. The Sexual Harassment Officer will also interview the person alleged to have committed sexual harassment. When the investigation is completed, the agency will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, the state agency will act promptly to eliminate the offending conduct, and where it is appropriate will impose disciplinary action.

V. Disciplinary Action

If it is determined that an employee has engaged in inappropriate conduct, the state agency will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action deemed appropriate under the circumstances.

VI. State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

1. The United States Equal Employment Opportunity Commission ("EEOC") One Congress Street, 10th Floor Boston, MA 02114, (617) 565-3200.
2. The Massachusetts Commission Against Discrimination ("MCAD") Boston Office: One Ashburton Place, Rm. 601, Boston, MA 02108, (617) 994-6000. Springfield Office: 424 Dwight Street, Rm. 220, Springfield, MA 01103, (413) 739-2145.

VII. Employee Acknowledgement:

By signing below, I acknowledge that I have read, understand, and agree to abide by the provisions set forth in the Human Resources Division Sexual Harassment Prevention Policy.

Print Name

Signature

Date